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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/918,413

07/30/2001

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06/01/2007

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EXAMINER

TOMASZEWSKI, MICHAEL

ART UNIT

PAPER NUMBER

3626

MAIL DATE

DELIVERY MODE

06/01/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

09/918,413

Applicant(s)

HAQ, MOHAMED M.

Examiner

Mike Tomaszewski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2007.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 5, 6, 9, 13, 16, 20, 25, 27, 28, 30-34, 38, 40, 44-50 and 58-69 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 6, 9, 13, 16, 20, 25, 27, 28, 30-34, 38, 40, 44-50 and 58-69 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Notice To Applicant***

1. This communication is in response to the amendment filed on 2/26/07. Claims 1, 2, 5, 6, 9, 13, 16, 20, 25, 27-28, 30-34, 38, 40, 44-50 and 58-69 remain pending.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1, 2, 5, 6, 9, 13, 16, 20, 25, 27-28, 30-34, 38, 40, 44-50 and 58-69 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In particular, there does not appear to be support in the specification for the amendments made to claims 1, 5, 9, 16, 25, 40 and 58. Claims 2, 6, 13, 20, 27-28, 30-

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34, 38, 44-50 and 59-69 incorporate the deficiencies of claims 1, 5, 9, 16, 25, 40 and 58 through dependency and are also rejected.

Applicant is advised to provide support for all features added to the amendment filed on 2/26/07 or remove the new matter.

**NOTE:** The following rejections assume that the subject matter added in the amendment filed on 2/26/07 is not new matter and are provided herein below for Applicant's consideration on the condition that Applicant properly traverses the new matter objections and rejections set forth in sections 2-3, *supra*, in the next communication sent in response to the present Office Action.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 9, 13, 25, 27-28, 33-34, 38, 40, 45-47, 63, and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Sato et al.* (5,911,687; hereinafter *Sato*), in view of *Bluth et al.* (6,403,897; hereinafter *Bluth*).

(A) As per currently amended claim 1, *Sato* discloses a method, comprising:

- (1) establishing a virtual clinic on a network (*Sato*: col. 1, lines 5-14; col. 4, line 65-col. 5, line 2; Fig. 1);
- (2) the virtual clinic having working relationships with medical professionals (*Sato*: col. 4, line 65-col. 5, line 2; Fig. 1);
- (3) the virtual clinic having working relationships with patients (*Sato*: col. 4, line 65-col. 5, line 2; Fig. 1);
- (4) the virtual clinic being associated with diagnostic centers, each diagnostic center having diagnostic equipment for generating diagnostic test results (*Sato*: col. 4, line 65-col. 5, line 2; Fig. 1);
- (5) the virtual clinic storing, for each diagnostic center, the location of the diagnostic center and identification of at least a portion of the diagnostic testing equipment at the diagnostic center (*Sato*: col. 7, lines 30-37; Fig. 1, 5-6);
- (6) receiving a request for medical services from the particular patient by the virtual clinic (*Sato*: abstract);
- (7) establishing a real-time electronic communications link between the particular patient and a particular medical professional by the virtual clinic (*Sato*: col. 6, lines 32-40);
- (8) receiving a request for a diagnostic test by the location of at least one diagnostic center having diagnostic test equipment corresponding to the diagnostic test (*Sato*: col. 8, lines 28-36; Fig. 1, 5-7);

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- (9) enabling the particular patient to obtain the location of at least one diagnostic center having diagnostic test equipment corresponding to the diagnostic test (*Sato*: col. 13, lines 11-27); and
- (10) communicating the diagnostic test results to the particular medical professional (*Sato*: col. 13, lines 36-48).

*Sato*, however, fails to *expressly* disclose a method, comprising:

- (6) a particular diagnostic center being other than a treatment-providing facility or a patient's private home (*Bluth*: col. 1, lines 17-67); and
- (7) obtaining particular diagnostic test results by the particular patient at one of the diagnostic centers (*Bluth*: col. 1, lines 17-67).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of *Bluth* with the teachings of *Sato* with the motivation of improving the capability of providing diagnostic testing to a wider range of individuals, needs, and situations (*Bluth*: col. 2, lines 1-3).

(B) As per currently amended claim 9, *Sato* discloses a system comprising:

- (1) a network (*Sato*: col. 1, lines 5-14; col. 4, line 65-col. 5, line 1; Fig. 1);

- (2) a medical professional device for use by a medical professional and enabled to receive information from the network and to submit responses on the network (*Sato*: col. 4, lines 65-col. 5, line 2; col. 6, lines 32-40; Fig. 1);
- (3) a patient device for use by a patient and enabled to submit information on the network and to receive responses from the network (*Sato*: col. 4, lines 65-col. 5, line 2; col. 6, lines 32-40; Fig. 1);
- (4) diagnostic centers, each having diagnostic testing equipment, (*Sato*: col. 4, line 65-col. 5, line 43; Fig. 1); and
- (5) a virtual clinic associated with the diagnostic centers, the virtual clinic storing the location of each diagnostic center and identification of at least a portion of the diagnostic testing equipment at each diagnostic center, the virtual clinic being configured to receive information and responses from the network, to select the medical professional based upon the information provided by the patient, and to enable real-time electronic communication of the information and the responses between the medical professional device and the patient device, the virtual clinic associated with the diagnostic center (*Sato*: abstract; col. 6, line 32-40; col. 7, lines 30-37; Fig. 1, 5-6).

*Sato*, however, fails to *expressly* disclose a system comprising:

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- (6) a particular diagnostic center being other than a treatment-providing facility or the patient's home.

Nevertheless, these features are old and well known in the art, as evidenced by *Bluth*. In particular, *Bluth* discloses a system comprising:

- (6) a diagnostic center being other than a treatment-providing facility or the patient's home (*Bluth*: col. 1, lines 17-67).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of *Bluth* with the teachings of *Sato* with the motivation of improving the capability of providing diagnostic testing to a wider range of individuals, needs, and situations (*Bluth*: col. 2, lines 1-3).

(C) As per previously presented claim 13, *Sato* discloses the system as in claim 9, the system further comprising:

- (1) a hospital enabled to receive the information from the network and to submit responses (*Sato*: abstract; col. 4, line 65-col. 5, lines 1; 25; Fig. 1).

(D) As per currently amended claim 25, *Sato* discloses a method, comprising:

- (1) establishing a virtual clinic including an electronic portal to medical care,  
the virtual clinic having capabilities for:
  - (i) enabling a patient to contact the virtual clinic (*Sato*: abstract; col. 8, lines 28-35; Fig. 7);
  - (ii) collecting information on the patient's medical condition (*Sato*: abstract; col. 6, lines 32-40);
  - (iii) identifying at least one medical professional based on the collected information (*Sato*: abstract; col. 8, lines 43-59; Fig. 10); and
  - (iv) accessing the patient's medical records (*Sato*: abstract; col. 2, lines 7-31; Fig. 3);
- (2) establishing a working relationship with the least one medical professional to provide medical services to patients referred via the virtual clinic, the medical professional providing information relating to qualifications for use during a selection process (*Sato*: col. 4, lines 65-col. 5, line 2; col. 8, lines 48-56; Fig. 1; Fig. 10);
- (3) providing diagnostic testing equipment at diagnostic centers associated with the virtual clinic (*Sato*: col. 6, lines 32-40; Fig. 2a-2b);
- (4) enabling by the virtual clinic real-time electronic communication between a patient device operated by the patient and a medical professional device operated by a medical professional to transmit the information regarding the patient's condition, diagnostic test requests by the medical professional, results from the diagnostic testing equipment, and

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recommended treatment (*Sato*: col. 4, 65-col. 5, line 2; col. 6, lines 32-44);  
and

- (5) enabling the virtual clinic to inform the patient of the location of at least one diagnostic center having diagnostic testing equipment corresponding to a diagnostic test requested by the medical professional (*Sato*: col. 13, lines 11-27).

*Sato*, however, fails to expressly disclose a method, comprising:

- (6) a particular diagnostic center being other than a treatment-providing facility or the patient's private home.

Nevertheless, these features are old and well known in the art, as evidenced by *Bluth*. In particular, *Bluth* discloses a method, comprising:

- (6) the diagnostic center being other than a treatment-providing facility or the patient's private home (*Bluth*: col. 1, lines 17-67).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of *Bluth* with the teachings of *Sato* with the motivation of improving the capability of providing diagnostic testing to a wider range of individuals, needs, and situations (*Bluth*: col. 2, lines 1-3).

(E) As per previously presented claim 27, *Sato* discloses the method of claim 25 further comprising:

- (1) submitting information relating to medical licenses by the medical professional (*Sato*: col. 8, lines 48-60; Fig. 10); and
- (2) comparing a patient's residence with the medical professional's medical license by the virtual clinic (*Sato*: col. 7, lines 56-67; col. 8, lines 1-67; col. 9, lines 1-11; Figs. 6-13).

(F) As per previously presented claim 28, *Sato* discloses the method of claim 25 further comprising:

- (1) providing the patient with access to the diagnostic testing equipment (*Sato*: col. 6, lines 32-40; Fig. 2a-2b).

(G) As per previously presented claim 29, *Sato* discloses the method of claim 25, wherein the step of providing diagnostic testing equipment comprises providing for communication of diagnostic testing equipment results with the virtual clinic and at least one medical professional (*Sato*: col. 6, lines 18-40).

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(H) As per previously presented claim 33, *Sato* discloses the method of claim 25, wherein the virtual clinic has the capability for informing a medical professional of diagnostic testing equipment results (*Sato*: col. 6, lines 20-40; Figs. 1-2b).

(I) As per previously presented claim 34, *Sato* discloses the method of claim 25, wherein the virtual clinic has the capability for allowing a medical professional to access and update a patient's medical records (*Sato*: col. 9, lines 4-11; col. 10, lines 35-42; Figs. 1-21).

(J) As per previously presented claim 38, *Sato* discloses the method of claim 25, further comprising:

- (1) contracting with at least one hospital to provide access to diagnostic testing equipment to patients of the virtual clinic (*Sato*: abstract; col. 6, lines 32-40).

(K) As per currently amended claim 40, *Sato* discloses a method, comprising:

- (1) a patient contacting a virtual clinic (*Sato*: abstract);
- (2) the patient providing information on his medical condition to the virtual clinic (*Sato*: col. 2, lines 7-33);

- (3) the virtual clinic identifying a medical professional based on the patient-provided medical condition information (*Sato*: col. 2, lines 7-33);
- (4) the virtual clinic enabling real-time electronic communication between a patient device operated by the patient and a medical professional device operated by the identified medical professional (*Sato*: col. 4, 65-col. 5, line 2; col. 6, lines 32-44);
- (5) the patient corresponding electronically with the medical professional (*Sato*: col. 4, 65-col. 5, line 2; col. 6, lines 32-44);
- (6) the medical professional requesting the patient to take a diagnostic test (*Sato*: col. 13, lines 37-48);
- (7) the virtual clinic enabling the patient to access a particular diagnostic center, the diagnostic center having diagnostic testing equipment corresponding to the diagnostic test (*Sato*: col. 4, 65-col. 5, line 2; col. 6, lines 32-44);
- (8) the particular diagnostic test equipment providing the diagnostic test results to the medical professional (*Sato*: col. 13, lines 37-48); and
- (9) the medical professional informing the patient of recommended treatment (*Sato*: abstract; col. 5, lines 26-33; col. 6, lines 32-44).

*Sato*, however, fails to *expressly* disclose a method, comprising:

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- (8) the diagnostic center being other than a treatment-providing facility or the patient's private home.

Nevertheless, these features are old and well known in the art, as evidenced by *Bluth*. In particular, *Bluth* discloses a method, comprising:

- (8) the diagnostic center being other than a treatment-providing facility or the patient's private home (*Bluth*: col. 1, lines 17-67).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of *Bluth* with the teachings of *Sato* with the motivation of improving the capability of providing diagnostic testing to a wider range of individuals, needs, and situations (*Bluth*: col. 2, lines 1-3).

(L) As per previously presented claim 45, *Sato* discloses the method of claim 40, further comprising:

- (1) informing the medical professional of the diagnostic testing equipment available to the patient (*Sato*: col. 6, lines 20-40; Figs. 1-2b).

(M) As per previously presented claim 46, *Sato* discloses the method of claim 40, further comprising:

- (1) at least one medical professional providing information relating to medical licenses and the virtual clinic comparing a patient's residence with a medical professional's medical license (*Sato*: col. 7, line 56-col. 8, line 67; col. 9, lines 1-11; Figs. 6-13).
- (N) As per previously presented claim 47, *Sato* discloses the method of claim 40, wherein the step of identifying a medical professional based on the patient-provided medical condition information comprises medical professionals providing information relating to qualifications and the virtual clinic comparing the patient-provided medical condition information with the medical professional-provided information relating to qualifications (*Sato*: col. 4, lines 65-col. 5, line 2; col. 8, lines 48-56; Fig. 1; Fig. 10).
- (O) As per new claim 63, *Sato* discloses the method of claim 1, wherein the particular diagnostic center is located in a public facility (*Sato*: abstract).
- (P) New claim 66 substantially repeats the same limitations as new claim 63 and therefore, is rejected for the same reasons given for that claim and incorporated herein.

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6. Claims 2, 5-6, 16, 20, 30-32, 41-44, 48-49, and 58-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Sato*, in view of *Bluth*, and in view of *Joao* (6,283,761; hereinafter *Joao*).

(A) As per previously presented claim 2, *Sato* discloses the method of claim 1, further comprising:

- (1) receiving, by the virtual clinic, information about the patient (*Sato*: abstract; col. 2, lines 7-31); and
- (2) based upon the information about the patient, selecting a medical professional (*Sato*: abstract; col. 5, lines 26-43).

*Sato*, however, fails to *expressly* disclose the method of claim 1, further comprising:

- (3) accessing a web page by the patient that is provided by the virtual clinic.

Nevertheless, these features are old and well known in the art, as evidenced by *Joao*. In particular, *Joao* discloses the method of claim 1, further comprising:

- (3) accessing a web page by the patient that is provided by the virtual clinic.

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One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of *Joao* with the combined teachings of *Sato* and *Bluth* with the motivation of providing an apparatus and method for processing and/or providing healthcare information between all healthcare participants; for performing diagnoses; and for prescribing healthcare treatment, among other things, in a network environment (*Joao*: col. 7, lines 62-67; col. 8, lines 15-26).

(B) As per currently amended claim 5, *Sato* discloses a method for delivering patient care, comprising:

- (1) establishing a virtual clinic on a network (*Sato*: col. 1, lines 5-14; col. 4, line 65-col. 5, line 2; Fig. 1);
- (2) the virtual clinic having a working relationship with one or more medical professionals (*Sato*: col. 4, line 65-col. 5, line 2; Fig. 1);
- (3) the virtual clinic being associated with a diagnostic centers, each diagnostic center having diagnostic testing equipment (*Sato*: col. 4, line 65-col. 5, line 43; Fig. 1);
- (4) the virtual clinic storing, for each diagnostic center, the location of the diagnostic center and identification of at least a portion of the diagnostic testing equipment at the diagnostic center (*Sato*: col. 7, lines 30-37; Fig. 1, 5-6);

- (5) receiving a request for medical services from the patient (*Sato*: abstract);  
and
- (6) establishing a real-time electronic communications link between the patient and a particular diagnostic center of the one or more medical professionals by the virtual clinic (*Sato*: col. 6, lines 32-40);
- (7) receiving a request for a diagnostic test by the patient from the particular medical professional (*Sato*: col. 8, lines 28-36; Fig. 1, 5-7);
- (8) enabling the patient to obtain the location of at least one diagnostic center having diagnostic testing equipment corresponding to the diagnostic test (*Sato*: col. 13, lines 11-27); and
- (9) communicating the diagnostic test results to the particular medical professional (*Sato*: col. 13, lines 36-48).

*Sato*, however, fails to *expressly* disclose a method for delivering patient care, comprising:

- (10) a particular diagnostic center being other than a treatment-providing facility or a patient's private home;
- (11) the virtual clinic having a working relationship with an insurance carrier, the insurance carrier having a patient to which the insurance carrier provides benefits; and

- (12) obtaining particular diagnostic test results by the patient at the particular diagnostic center.

Nevertheless, these features are old and well known in the art, as evidenced by *Bluth* and *Joao*. In particular, *Bluth* and *Joao* disclose a method for delivering patient care, comprising:

- (10) a particular diagnostic center being other than a treatment-providing facility or a patient's private home (*Bluth*: col. 1, lines 17-67);
- (11) the virtual clinic having a working relationship with an insurance carrier, the insurance carrier having a patient to which the insurance carrier provides benefits (*Joao*: col. 2, lines 55-62; Fig. 1); and
- (12) obtaining particular diagnostic test results by the patient at the particular diagnostic center (*Bluth*: col. 1, lines 17-67).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of *Bluth* with the combined teachings of *Sato* and *Joao* with the motivation of improving the capability of providing diagnostic testing to a wider range of individuals, needs, and situations (*Bluth*: col. 2, lines 1-3).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of *Joao* with the combined teachings of *Sato* and *Bluth* with the motivation of providing an apparatus and method for processing and/or

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providing healthcare information between all healthcare participants; for performing diagnoses; and for prescribing healthcare treatment, among other things, in a network environment (*Joao*: col. 7, lines 62-67; col. 8, lines 15-26).

(C) As per previously presented claim 6, *Sato* discloses the method of claim 5, further comprising:

- (1) based upon the information, selecting a medical professional (*Sato*: abstract; col. 5, lines 26-43).

*Sato*, however, fails to *expressly* disclose the method of claim 5, further comprising:

- (2) accessing a web page by the patient that is provided by the insurance carrier;
- (3) receiving, by the insurance carrier, information from the patient through the web page; and
- (4) forwarding the information to the virtual clinic.

Nevertheless, these features are old and well known in the art, as evidenced by *Joao*. In particular, *Joao* discloses the method of claim 5, further comprising:

- (2) accessing a web page by the patient that is provided by the insurance carrier (*Joao*: col. 15, lines 18-25; col. 18, lines 32-44; Fig. 1);
- (3) receiving, by the insurance carrier, information from the patient through the web page (*Joao*: col. 11, lines 65-col. 12, line 50; col. 15, lines 18-25; col. 18, lines 32-44; Fig. 1); and
- (4) forwarding the information to the virtual clinic (*Joao*: col. 14, lines 59-col. 15, line 5; Fig. 1).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of *Joao* with the combined teachings of *Sato* and *Bluth* with the motivation of providing an apparatus and method for processing and/or providing healthcare information between all healthcare participants; for performing diagnoses; and for prescribing healthcare treatment, among other things, in a network environment (*Joao*: col. 7, lines 62-67; col. 8, lines 15-26).

(D) As per currently amended claim 16, *Sato* discloses a system comprising:

- (1) a network (*Sato*: col. 1, lines 5-14; col. 4, line 65-col. 5, line 1; Fig. 1);
- (2) a medical professional device for use by a medical professional and enabled to receive information from the network and to submit responses on the network (*Sato*: col. 4, line 65-col. 5, line 2; col. 6, lines 32-40; Fig. 1);

- (3) a patient device for use by a patient and enabled to make a request for medical services, to submit the information on the network and to receive the responses from the network (*Sato*: col. 4, lines 65-col. 5, line 2; col. 6, lines 32-40; Fig. 1);
- (4) diagnostic centers, each having diagnostic testing equipment (*Sato*: col. 4, line 65-col. 5, line 43; Fig. 1); and
- (5) the virtual clinic being associated with the diagnostic centers and storing the location of each diagnostic center and identification of at least a portion of the diagnostic testing equipment at each diagnostic center, the virtual clinic being configured to receive the information and the responses from the network, the virtual clinic being configured to select the medical professional based upon the information provided by the patient, the virtual clinic being configured to enable real-time electronic communication of the information and the responses between the medical professional device and the patient device, and the virtual clinic being capable of enabling the patient to obtain the location of at least one diagnostic center having diagnostic test equipment corresponding to a diagnostic testing requested by the medical professional (*Sato*: col. 4, line 65-col. 5, line 43; col. 6, lines 32-40; Fig. 1).

*Sato*, however, fails to *expressly* disclose a system comprising:

- (6) a particular diagnostic center being other than a treatment-providing facility or the patient's private home; and
- (7) an insurance carrier being configured to receive the request for medical services from the patient and to forward the request to a virtual clinic.

Nevertheless, these features are old and well known in the art, as evidenced by *Bluth* and *Joao*. In particular, *Bluth* and *Joao* disclose a system comprising:

- (6) a particular diagnostic center being other than a treatment-providing facility or the patient's private home (*Bluth*: col. 1, lines 17-67); and
- (7) an insurance carrier being configured to receive the request for medical services from the patient and to forward the request to a virtual clinic (*Joao*: col. 2, lines 55-62; Fig. 1).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of *Bluth* with the combined teachings of *Sato* and *Joao* with the motivation of improving the capability of providing diagnostic testing to a wider range of individuals, needs, and situations (*Bluth*: col. 2, lines 1-3).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of *Joao* with the combined teachings of *Sato* and *Bluth* with the motivation of providing an apparatus and method for processing and/or providing healthcare information between all healthcare participants; for performing

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diagnoses; and for prescribing healthcare treatment, among other things, in a network environment (*Joao*: col. 7, lines 62-67; col. 8, lines 15-26).

(E) As per previously presented claim 20, *Sato* discloses the system as in claim 16, the system further comprising:

- (1) a hospital enabled to receive the information from the network and to submit responses (*Sato*: abstract; col. 4, line 65-col. 5, lines 1; 25; Fig. 1).

(F) As per original claim 30, *Sato* fails to *expressly* disclose the method of Claim 25, wherein the virtual clinic has a presence on at least one Internet site.

Nevertheless, this feature is old and well known, as evidenced by *Joao*. In particular, *Joao* discloses the method of Claim 25, wherein the virtual clinic has a presence on at least one Internet site (*Joao*: col. 15, lines 18-25; col. 18, lines 32-44; Fig. 1).

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned features of *Joao* with the combined teachings of *Sato* and *Bluth* with the motivation of providing an apparatus and method for processing and/or providing healthcare information between all healthcare participants; for performing diagnoses, and for prescribing healthcare treatment, among other things, in a network environment (*Joao*: col. 7, lines 62-67; col. 8, lines 15-26).

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(G) As previously presented claim 31, *Sato* fails to *expressly* disclose the method of claim 25, wherein the virtual clinic further has the capability for at least one insurance company to refer patients to the virtual clinic.

Nevertheless, these features are old and well known in the art, as evidenced by *Joao*. In particular, *Joao* discloses the method of claim 25, wherein the virtual clinic further has the capability for at least one insurance company to refer patients to the virtual clinic (*Joao*: abstract; col. 31, lines 65-67; col. 32, lines 1-46; Fig. 1).

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned features of *Joao* with the combined teachings of *Sato* and *Bluth* with the motivation of providing an apparatus and method for processing and/or providing healthcare information between all healthcare participants; for performing diagnoses, and for prescribing healthcare treatment, among other things, in a network environment (*Joao*: col. 7, lines 62-67; col. 8, lines 15-26).

(H) As per previously presented claim 32, *Sato* fails to *expressly* disclose the method of claim 25, wherein the virtual clinic has the capability for at least one hospital to refer patients to the virtual clinic.

Nevertheless, these features are old and well known in the art, as evidenced by *Joao*. In particular, *Joao* discloses the method of claim 25, wherein the virtual clinic has the capability for at least one hospital to refer patients to the virtual clinic (*Joao*: abstract; col. 31, lines 65-67; col. 32, lines 1-46; Fig. 1).

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned features of *Joao* with the combined teachings of *Sato* and *Bluth* with the motivation of providing an apparatus and method for processing and/or providing healthcare information between all healthcare participants; for performing diagnoses, and for prescribing healthcare treatment, among other things, in a network environment (*Joao*: col. 7, lines 62-67; col. 8, lines 15-26).

(I) Original claims 41-42 substantially repeat the same limitations as claims 31-32 and therefore, are rejected for the same reasons given for those claims and incorporated herein.

(J) As per original claim 43, *Sato* fails to expressly disclose the method of claim 40, further comprising:

(1) the virtual clinic receiving payment for medical services provided.

Nevertheless, this feature is old and well known in the art, as evidenced by *Joao*. In particular, *Joao* discloses the method of claim 40, further comprising:

(1) the virtual clinic receiving payment for medical services provided  
(*Joao*: col. 37, lines 35-67; col. 38, lines 1-8; Fig. 1).

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned features of Joao with the combined teachings of *Sato* and *Bluth* with the motivation of providing an apparatus and method for processing and/or providing healthcare information between all healthcare participants; for performing diagnoses, and for prescribing healthcare treatment, among other things, in a network environment (*Joao*: col. 7, lines 62-67; col. 8, lines 15-26).

(K) As per previously presented claim 44, *Sato* fails to *expressly* disclose the method of claim 43, further comprising:

- (1) the virtual clinic forwarding a portion of the received payment to the medical professional.

Nevertheless, this feature is old and well known in the art, as evidenced by *Joao*. In particular, *Joao* discloses the method of claim 43, further comprising:

- (1) the virtual clinic forwarding a portion of the received payment to the medical professional (*Joao*: col. 37, lines 35-67; col. 38, lines 1-8; Fig. 1).

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned features of Joao with the combined teachings of *Sato* and *Bluth* with the motivation of providing an apparatus and method for processing and/or

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providing healthcare information between all healthcare participants; for performing diagnoses, and for prescribing healthcare treatment, among other things, in a network environment (*Joao*: col. 7, lines 62-67; col. 8, lines 15-26).

(L) As per original claim 48, *Sato* fails to *expressly* disclose the method of claim 40, further comprising:

- (1) the patient contracting with the virtual clinic to provide payment in return for receiving medical services.

Nevertheless, these features are old and well known in the art, as evidenced by *Joao*. In particular, *Joao* discloses the method of claim 40, further comprising:

- (1) the patient contracting with the virtual clinic to provide payment in return for receiving medical services (*Joao*: col. 37, lines 35-67; col. 38, lines 1-8; Fig. 1).

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned features of *Joao* with the combined teachings of *Sato* and *Bluth* with the motivation of providing an apparatus and method for processing and/or providing healthcare information between all healthcare participants; for performing

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diagnoses, and for prescribing healthcare treatment, among other things, in a network environment (*Joao*: col. 7, lines 62-67; col. 8, lines 15-26).

(M) As per original claim 49, *Sato* fails to *expressly* disclose the method of claim 40, further comprising:

- (1) at least one insurance company reimbursing the virtual clinic for medical services provided to at least one patient (*Joao*: col. 37, lines 35-67; col. 38, lines 1-8; Fig. 1).

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned features of *Joao* with the combined teachings of *Sato* and *Bluth* with the motivation of providing an apparatus and method for processing and/or providing healthcare information between all healthcare participants; for performing diagnoses, and for prescribing healthcare treatment, among other things, in a network environment (*Joao*: col. 7, lines 62-67; col. 8, lines 15-26).

(N) As per currently amended claim 58, *Sato* discloses a virtual clinic, comprising:

- (1) enabling a patient to request consultation with a medical professional and to provide medical condition information (*Sato*: col. 2, lines 7-33);

- (2) a medical professional database for storing contact information and qualifications for a set of medical professionals (*Sato*: col. 2, lines 7-33; col. 8, lines 48-59);
- (3) a medical professional selection component for selecting one of the medical professionals in the medical professional database based on predetermined criteria (*Sato*: col. 5, lines 39-43; col. 8, lines 43-49);
- (4) a communication component for enabling real-time electronic communication between the selected medical professional and the patient (*Sato*: col. 6, lines 32-40);
- (5) memory for storing the location of each of the plurality of diagnostic centers associated with the virtual clinic and identification of diagnostic test equipment at each of the plurality of diagnostic centers (*Sato*: col. 7, lines 30-37; Fig. 1, 5-6);
- (6) a communication component for informing the patient of at least one diagnostic center having diagnostic test equipment corresponding to a diagnostic test requested by the selected medical professional (*Sato*: col. 13, lines 36-48); and
- (7) a diagnostic test equipment communication component for communicating with diagnostic test equipment to obtain diagnostic test results of a patient (*Sato*: col. 6, lines 20-40).

*Sato*, however, fails to *expressly* disclose a virtual clinic, comprising:

- (8) a web page;
- (9) at least one of the diagnostic centers being other than a treatment-providing facility or the patient's private home
- (10) the diagnostic test equipment being maintained at a location other than a treatment-providing facility or the patient's private home.

Nevertheless, these features are old and well known in the art, as evidenced by *Joao*. In particular, *Joao* discloses a virtual clinic, comprising:

- (8) a web page (*Joao*: col. 15, lines 18-25; col. 18, lines 32-44; Fig. 1);
- (9) at least one of the diagnostic centers being other than a treatment-providing facility or the patient's private home (*Bluth*: col. 1, lines 17-67);  
and
- (10) the diagnostic test equipment being maintained at a location other than a treatment-providing facility or the patient's private home (*Bluth*: col. 1, lines 17-67).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of *Bluth* with the combined teachings of *Sato* and *Joao* with the motivation of improving the capability of providing diagnostic testing to a wider range of individuals, needs, and situations (*Bluth*: col. 2, lines 1-3).

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned features of *Joao* with the combined teachings of *Sato* and *Bluth* with the motivation of providing an apparatus and method for processing and/or providing healthcare information between all healthcare participants; for performing diagnoses, and for prescribing healthcare treatment, among other things, in a network environment (*Joao*: col. 7, lines 62-67; col. 8, lines 15-26).

(O) As per previously presented claim 59, *Sato* discloses the virtual clinic of claim 58, wherein the predetermined criteria involves one of the qualifications of the medical professional (*Sato*: col. 8, lines 52-56; Fig. 10).

Examiner has noted insofar as claim 59 recites "*involves one of* [emphasis added] the qualifications of the medical professional, the patient's medical condition information, the time of the request, scheduling information, location of the patient, patient request, patient preferences, availability of a patient's standard physician, insurance information, employer information, and a prior medical professional assisting the patient," the qualifications of the medical professional is recited.

(P) As per previously presented claim 60, *Sato* discloses the virtual clinic of claim 58, further comprising a patient records accessing component for communicating with a patient records database to provide patients records information to the medical professional (*Sato*: col. 10, lines 35-43).

7. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Sato*, in view of *Bluth*, as applied to claim 40 above, and further in view of *SoRelle* (*SoRelle*, Ruth. "Doctor's Referral Fee Is Ruled A Violation" Aug 1, 1987. Houston Chronicle. pg. 18; hereinafter *SoRelle*).

(A) As per previously presented claim 50, *Sato* fails to *expressly* disclose the method of claim 40, further comprising:

- (1) at least one physician reimbursing the virtual clinic for directing the patient to the medical professional.

Nevertheless, these features are old and well known in the art, as evidenced by *SoRelle*. In particular, *SoRelle* discloses the method of claim 40, further comprising:

- (1) at least one physician reimbursing the virtual clinic for directing the patient to the medical professional (*SoRelle*: pgs. 1-2).

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned features of *SoRelle* with the combined teachings of *Sato* and *Bluth* with the motivation of compensating an entity contracted to provide referrals (*SoRelle*: pgs. 1-2).

8. Claims 61-62 and 64-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Sato*, in view of *Bluth*, as applied to claims 1 and 9 above, and further in view of Official Notice.

(A) As per new claim 61, *Sato* fails to *expressly* disclose the method of claim 1, wherein the particular diagnostic center is located in an apartment complex.

Nevertheless, Examiner takes Official Notice of the technique of placing a diagnostic center in an apartment complex.

Examiner considers the placement of a diagnostic center in an apartment complex to be notoriously well known and obvious. For example, assisted living facilities (i.e., apartment complexes) cater to, *inter alia*, elderly individuals requiring medical attention involving diagnostic equipment. Moreover, Examiner respectfully submits that the technique of placing diagnostic centers within an apartment complex was developed and implemented prior to Applicant's claimed invention.

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Official Notice with the combined teachings of *Sato* and *Bluth* with the motivation of improving the capability of providing diagnostic testing to a wider range of individuals, needs, and situations (*Bluth*: col. 2, lines 1-3).

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(B) As per new claim 62, *Sato* fails to *expressly* disclose the method of claim 1, wherein the particular diagnostic center is located in a workplace of the particular patient.

Nevertheless, Examiner takes Official Notice of the technique of placing a diagnostic center in the workplace of the particular patient.

Examiner considers the placement of a diagnostic center in a workplace of the particular patient to be notoriously well known and obvious. For example, many large corporations tend to have some sort of medical personnel on staff at their headquarters who perform rudimentary medical procedures, such as, *inter alia*, diagnostic tests (e.g., blood pressure, heart rate, etc.). Moreover, Examiner respectfully submits that the technique of placing diagnostic centers within the workplace of the particular patient was developed and implemented prior to Applicant's claimed invention.

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Official Notice with the combined teachings of *Sato* and *Bluth* with the motivation of improving the capability of providing diagnostic testing to a wider range of individuals, needs, and situations (*Bluth*: col. 2, lines 1-3).

(C) Claims 64-65 substantially repeat the same limitations as those of claims 61-62 and therefore, are rejected for the same reasons given for those claims and incorporated herein.

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9. Claims 67-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Sato*, in view of *Bluth*, and in view of *Joao*, as applied to claim 58 above, and further in view of Official Notice.

(A) Claims 67-69 substantially repeat the same limitations as those of claims 61-62 and therefore, are rejected for the same reasons given for those claims and incorporated herein.

### ***Response to Arguments***

10. Applicant's arguments filed 2/26/07 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 2/26/07.

(A) On pages 13-16 of the response, Applicant argues that neither *Sato*, nor *Bluth*, nor *Joao*, nor *SoRelle*, nor Official Notice describes (1) the virtual clinic storing for each diagnostic center the location of the diagnostic center and identification of at least a portion of the diagnostic testing equipment at the diagnostic center, (2) enabling a particular patient to obtain the location of at least one diagnostic center having diagnostic equipment corresponding to the diagnostic test, where (3) a particular diagnostic center is other than a treatment-providing facility or a patient's private home.

In response, Examiner respectfully submits that the prior art, in toto, does indeed describe and teach the aforementioned features, namely, (1) the virtual clinic storing for each diagnostic center the location of the diagnostic center and identification of at least a portion of the diagnostic testing equipment at the diagnostic center, (2) enabling a particular patient to obtain the location of at least one diagnostic center having diagnostic equipment corresponding to the diagnostic test, where (3) a particular diagnostic center is other than a treatment-providing facility or a patient's private home. See sections 4-9, *supra*.

### ***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Tomaszewski whose telephone number is (571)272-8117. The examiner can normally be reached on M-F 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571)272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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